

A TRIBUNE ARTIST'S SKETCHES AT THE SULZER TRIAL.



track of the total. Many of these were discovered by the Frawley investigating committee; others were not. There are many more to come, the counsel for the prosecution say. They expect it will take fully another week to present all the further evidence they hope to lay before the court.

There is much discussion about whether Governor Sulzer himself will testify. His intimates say he will not permit anybody to keep him from testifying to clear his name, and by the same token they insist that Charles F. Murphy of Tammany will have to testify to clear himself of the charge of conspiracy which the Governor has made against him because of the Assembly's adoption of the impeachment resolution. Tammany men insist that Murphy has nothing to fear, and that he is just as willing to testify here as he was when he promised to appear before the Frawley committee and challenged the Governor to do likewise.

The Assembly Board of Managers announced to-night through their chairman, Aaron J. Levy, that no additional articles of impeachment would be presented to the Assembly. This decision, which was expected after the "open door" rulings made by the court today, settled finally the proposition that the case would be tried on the issues now before the court.

Both Assembly and Senate met to-night and adjourned until to-morrow.

SCHIFF ASKED IF HE WOULD TAKE BACK HIS \$2,500 GIFT

The testimony of Mr. Schiff was the most interesting and, in the opinion of the Assembly managers, far the most important of that taken at the afternoon session of court. He was recalled by counsel to the managers in an effort to have him give more definite information about the purpose of his contribution to Mr. Sulzer. It was not until various Senate members of the court had taken a hand in this examination that the testimony about the attempt of the Governor's former partner to repay the \$2,500 came out. Mr. Schiff was called near the end of the day. Ex-Senator Brackett, for the managers, asked him about the visit of Sulzer to his office, seeking to have him say that the check was given as a campaign contribution and for no other purpose. He said that he had never given Mr. Sulzer any checks before, so far as he could recollect.

"Was it given to him for the reason that he was a candidate for Governor?" asked Brackett.

"I suppose if he had not been a candidate for Governor that such discussion would not have come up at all."

"And the check would not have been given?"

"I don't know about that. I think that if Governor Sulzer had come to me at any time for a check for \$2,500 I would have given it to him."

Brackett asked that this answer be stricken out as not responsive, starting a lawyers' rumpus, which finally ended in the ruling of President Cullen that the witness "answers he doesn't know."

Then Brackett asked him if he had heard of any change of circumstances of Sulzer previous to the giving of the check, except his nomination. Schiff did not grasp the point of the question and asked what was meant by "circumstances."

Tells Why It Was Only \$2,500.

"Whether he had suffered reverses or troubles of any kind, except his nomination," explained Brackett.

The witness said he had not. He answered further that he knew Sulzer was a member of Congress, drawing a salary. He repeated that the notation on the face of the check, "Mr. Schiff's contribution to Mr. Sulzer's campaign expenses," was in his own handwriting. He explained that this was done when he surrendered the check to the counsel for the Frawley committee, so the check, which was one of Kuhn, Loeb & Co.'s, would not be mistaken for an expenditure of the firm's money. The amount had been charged to his personal account on the firm's books, he said.

Finally Mr. Brackett asked why Mr. Schiff had said yesterday that he would not give the candidate more than \$2,500. "I told him that some time before he was nominated Mr. Kresel and Mr. Einstein, an attorney, of New York, had called on me and asked me to interest myself in Mr. Straus's campaign, and I said I would provide Mr. Sulzer was not nominated, since if Mr. Sulzer was nominated I would have to vote for Mr. Sulzer, because I thought he had given \$1,000 to Mr. Kresel and Mr. Einstein for the Straus campaign, and as I probably would not get that back I couldn't give him any more."

Answering questions by various Senators, Mr. Schiff said the phrase "campaign expenses" written on the check was "just a mode of expression, a hurriedly made note of expression," which he wrote "on my own inspiration, you might say." He said that the \$1,000 he gave to the Straus fund was for campaign expenses.

"How, then, do you differentiate between the contribution to Straus and the contribution to the Sulzer campaign or to Governor Sulzer?" asked Senator Walters.

"I don't differentiate," answered Mr. Schiff. "Mr. Straus might have used that \$1,000 for whatever he pleased."

Asked if he would take money back, Senator Foley, who represents in the Senate the district in which C. F. Murphy lives, then began a cross-examination. He asked Mr. Schiff if he had seen Sulzer in the last two months, since the campaign check had been a matter of public knowledge. Mr. Schiff said the Governor, through his secretary, had invited him to Albany, but he declined the

afternoon at 4 o'clock, when it is expected that a recess will be taken until after the end of the impeachment trial.

invitation. This was an invitation to visit Mrs. Sulzer, who was ill. "Did anybody communicate with you in New York City on behalf of Mr. Sulzer and discuss this matter with you?" persisted Foley.

"Yes, this gentleman, Mr. Frankenstein," answered Schiff, pointing out the Governor's former partner, who sat with the Sulzer counsel, "came in to see me, and said that if I would accept it Governor Sulzer would be very glad to refund to me this \$2,500, to which I replied that I could not now, since the matter was under investigation, permit the status to be changed."

"You refused to accept a refund of the \$2,500?"

"I didn't."

"I say, you refused to accept a refund of the \$2,500?" repeated Foley.

"It was never tendered to me. The question was only asked whether I would accept it, to which I said no," answered Schiff.

"I understood the offer was made you to refund it."

"I cannot say such a definite offer was made. I was asked whether I would accept it. In exact words, so far as I remember, they were: 'Governor Sulzer would like to repay you this \$2,500, and to that I answered I could not accept it since the matter was under investigation.'"

"Did you talk to anybody else connected with the defense of Governor Sulzer?"

"No."

"I would like to ask the witness, who is Mr. Frankenstein?" queried Senator Thompson.

"I had never seen Mr. Frankenstein before," Mr. Schiff said, "and when he came to my office I asked him the very same question—what relation he had to Governor Sulzer—and he said to me he was his former law partner."

Was for Mr. Straus's Election.

"Were these contributions for the purpose of establishing a more intimate relationship between yourself and the persons to whom they were contributed?" demanded Thompson.

"When Mr. Straus was nominated it was my hope that he would be elected," came the answer. "But when, after several weeks, Governor Sulzer was nominated, my hopes changed. I felt that Governor Sulzer was, so far as I felt concerned, better entitled to election, and my hope was that he would be elected."

Morris Tekulsky, the Tammany saloon-keeper, was the afternoon's first witness. He said he gave Sulzer a check for \$50 at Tammany Hall on the evening of October 16 when the candidate finished making a speech at the general ratification meeting, saying it was a "small contribution, and I hope it'll do you good."

Then followed Mr. Godwin, the paying teller at the Farmers' Loan and Trust Company, who read into the record a transcript of the Sulzer account there from September 3, 1912, to September 20, 1912. The balance at the former date was \$1,112.55; the balance on November 1 was \$1,748.15.

Patrick McCormack, a clerk in the office of the City of New York, was called to prove that Alfred J. Wolf, the Commissioner of Deeds before whom Governor-elect Sulzer swore to his statement of campaign receipts and expenditures, held that office when he took the Governor's affidavit. Thereupon the Sulzer counsel, who put Wolf through a hard cross-examination in an apparent endeavor to prove that he did not, conceded the fact and had it entered on the records that they raised no issue about it.

Charles A. Stadler, president of the American Mailing Company, told how Sulzer sought his good offices with Tammany Hall to get the nomination for Governor.

"Mr. Sulzer," he said, "requested me to go to 14th street and introduce for him there. I went to 14th street, saw the parties in power, talked the matter over there and recommended Mr. Sulzer's nomination and promised if they gave him their support I would do all I could for him and all that my friends could do, and then subsequently reported back to Mr. Sulzer what I had done, and he thanked me."

Sulzer Sent Him to 14th Street.

"Before you went to 14th street, as you described, did Mr. Sulzer expressly request you to go to 14th street?" "He did," said Stadler.

After the nomination, said Stadler, in response to further appeals for help, he went around among his friends the brewers and collected funds for the candidate's campaign expenses. He got a check for \$50 from Peter Doelger, one for \$100 from William J. Elias, one for \$250 from George C. Hawley, president of an Albany brewery; one for \$50 from August Lichow, a representative of foreign brewers, and one from William and Philip Hoffman for \$250. Some of these were made out to his order.

He testified that he had them cashed because Sulzer had asked Charles Derach, an employee who delivered the Doelger and Elias checks to him, to have future checks cashed and turn over the cash. Stadler said he talked with the Governor and told him who had contributed and that this money was for the campaign fund. The cash, he said, was handed over to Sulzer by Derach and himself.

Derach came next, a witness who caused the lawyers for the prosecution much trouble. Mr. Stanchfield examined him.

ABRAHAM I. ELKUS.

Breed ALBANY, N.Y.

Every few moments he asked the witness to "refresh his memory" from a typewritten statement, to which he affixed his signature, and the pages of which he had initialed. Derach could not remember things he was asked until his memory was thus "refreshed."

He admitted that he delivered two checks to the candidate at his office, as messenger for ex-Senator Stadler. He said he knew one was the Doelger check, and he thought the other was the Elias check. He balked at saying that he was hidden to tell Sulzer they were for "campaign purposes." Stanchfield had him read his statement over. Meantime the Sulzer lawyers tried to have the testimony shut off, but Judge Cullen overruled them.

"I merely said that I handed these two checks to Mr. Sulzer, and told him Senator Stadler asked me to bring them to him. They were included in an envelope," the witness finally said.

"If I did use the word 'campaign,' I said they were for campaign purposes."

That started another legal dispute, which finally ended in his admitting, "I said they were for campaign purposes."

He balked even harder at repeating what he had sworn to previously in his statement, that Sulzer had asked him to have future checks cashed and to tell that to Stadler.

Gave Money to Mrs. Sulzer.

About October 23, Derach continued, he received a second envelope from Stadler, containing \$100 in bills. That he took to the Governor's house. He said he went in and Mrs. Sulzer and the Governor were there. Mrs. Sulzer, he said, took the cash and put it into a desk.

"Now, whether I handed it to Mr. Sulzer or Mrs. Sulzer, I don't remember," he finally said, "but I know they took the cash I brought up to the house."

After a lot more interrogation, he remembered that this was on a Sunday morning; that he had gone with Stadler to the Sulzer home on a Sunday morning, and that he had never gone there save on one Sunday morning. Stanchfield tried to offer the statement which he had used to refresh Derach's memory in evidence, but it was excluded.

Derach admitted that he had sworn to the statement after reading it when transcribed from stenographic notes in the office of the Assembly managers, and that it was accurate. He said that Sulzer, in asking him to bring cash instead of "traveling expenses,"

"You forgot to say that in that statement, didn't you?" asked Stanchfield.

"Yes, I forgot to mention that in there," admitted the witness.

Ralph Trier, vice-president of the Frank V. Straus Company, also brought Mrs. Sulzer's name into the case. He testified that he had gone with Stadler to New York City, to "pay Herman Sulzer, candidate for Governor," \$1,000, a check for that amount had been sent to the Sulzer home. He was told by telephone, he said, by a woman, who represented herself to be Mrs. Sulzer, that the letter had come, but it contained no check. Thereupon payment was stopped on that check and a duplicate issued.

A woman who represented herself as Mrs. Sulzer said over the telephone, when he inquired, that the duplicate check had been received. It was returned, paid, bearing the indorsement "William Sulzer" and the further indorsement "Pay to the order of the Manhattan Company, New York, Boyer, Griswold & Co." This is one of the checks which figured in the stock deals.

Trier said he understood Mrs. Sulzer was some relation by marriage to Straus.

Simon Ullman, a retired food dealer and now connected with a brewery in this city, swore that he saw Sulzer and was told to see his secretary about a campaign contribution. So he drew a check for \$200 to the order of Sarecky and sent it, along with a letter, saying it was a "voluntary contribution to your campaign fund."

Bird S. Coler told of a \$100 check sent from New Mexico to Sulzer; Ezekiel Pisman, who held a power of attorney for A.

COURT VOTES TO BARE ALL SULZER CONTRIBUTIONS

Argument and finally the vote on the question of admitting the evidence of Morris Tekulsky, a saloonkeeper, who contributed to the Sulzer fund, were the features of the morning session. It was not that Tekulsky's evidence in itself was of such tremendous import to the prosecution, but the problem which grew out of the first questions addressed to him—whether the Assembly managers should be allowed to bring in evidence not outlined in the articles of impeachment and supplementary to the accusations contained therein—was viewed by prosecution and defense as one of first importance.

Tekulsky is a former president of the Retail Liquor Dealers' Association of New York City, a member of the general committee of Tammany Hall and has been a friend to Sulzer for more than twenty years.

Mr. Marshall, fighting against the admission of any evidence supplementary to the impeachment articles, objected on the broad ground that an impeachment, like an indictment, should contain all the accusations. He contended that the prosecution should be held to the limits outlined in the articles.

Mr. Stanchfield, who replied for the managers, attacked Marshall's position and said that in an impeachment trial the doors should be wide open. More than that, he argued that the managers, in citing the checks and campaign contributions in the articles, had prefaced the citation with the words "the following among others." This, he contended, gave them the right to present some of the others at the trial, among them Tekulsky's.

Opens Wide the Door.

"My opinion is that this evidence should be admitted," said President Cullen. After explaining the reasons for his opinion, he said that as the question raised was of supreme importance, and one which might be expected to come up often, he hoped some one would demand a vote on his ruling that such evidence was admissible. Judge Cullen accordingly framed a motion, on which the court voted unanimously, fifty-five members being present, to sustain the ruling of the president.

The decision on the question by a unanimous vote, no less than the emphatic manner in which President Cullen expressed his opinion on it, marked more clearly than has anything since the beginning of the trial the extent to which counsel and witnesses will be allowed to go.

Tekulsky's examination was begun by Mr. Kresel, for the managers. Mr. Marshall objected first to the connection between Tekulsky as an individual and Tekulsky as a former president of the Liquor Dealers' Association, basing his objection on the ground that it was entirely immaterial. The president promptly overruled Marshall's objection, and the examination proceeded to a point where Kresel asked:

"Now, then, will you tell the court what occurred between Mr. Sulzer and yourself on that occasion?" referring to a ratification meeting at Tammany Hall on October 16, 1912.

Marshall began then the argument on objection, which was viewed by counsel for both sides, apparently, as one of the turning points of the trial.

"My objection is that under the articles of impeachment, which govern us here just as an indictment would govern us if this were an indictment, there is absolutely no allegation which presents a ground for complaint the fact that a contribution was made by this witness or by any organization which he may represent, which was not included in the report or statement filed in the Secretary of State's office or which was not accounted for or which was appropriated by the defendant or respondent to his own use, and that, therefore, any evidence with regard to it is immaterial and incompetent," Mr. Marshall began.

Calls It New Article.

He read over the first, second and sixth articles and argued that their whole purpose was to give notice to the person charged with an offense of the nature of the offense charged. To allow such new accusation, as was evidently contemplated in Tekulsky's evidence, he said, would be in effect to put in new articles of impeachment which were not sanctioned by the Assembly, the only body constituted to prefer such articles. He contended that if such evidence was to be admitted the managers might make out an entirely new case against the Governor, and one on which he would not have the time for investigation allowed him by the constitution.

Stanchfield's response called attention first to the wording of the articles involved in the question, pointing out especially that the managers had specifically stated in the article that the names and contributions cited were "among others."

He said that the members of the court would recognize that there was the "strongest human reason" for candidates for office seeking to keep from the public certain kinds of contributions, and that the proper remedy for the respondent's counsel would have been to have insisted at the beginning of the case that they be furnished a bill of particulars.

The lawyers contended further that as a matter of legal procedure in any case which involved alleged grand larceny a District Attorney was always permitted to present and prove "contemporaneous acts similar in nature and similar in character."

"That is the broad general situation that obtains here," said Stanchfield; "we charge a crime and an intent upon the part of the respondent to parade for the public gaze certain itemized statements that appear in the papers he filed under oath as containing a list of all the contributors to his political campaign, small amounts from obscure sources that would not attract attention, and that by a scheme, a plan, he omitted from that statement amounts that came from Wall Street, as identified in the person of Mr. Schiff; of amounts that came from the liquor interests, as represented in the person years ago of Mr. Tekulsky; of amounts that

came from brewers, from all sources where he thought the receipts of those moneys might reflect in any way upon his political future or be the subject of criticism or caviar or debate.

"Those amounts were audaciously, deliberately omitted by design, by intent, by this respondent from those statements, and therefore we claim that as bearing upon the truth of these charges, as showing the corrupt, wilful, deliberate intent that renders the man unfit to occupy the place that he at present fills, we have the right to show that in numberless other instances not appearing upon this record he has deliberately failed, intentionally failed, to file a statement of his receipts."

Marshall's rebutting argument was confined to a strict legal exposition of what he termed "the rights of the respondent" to have the trial limited flatly to the exact accusations in the impeachment articles.

Stanchfield closed the debate with a brief argument to the effect that all the Sulzer campaign fund transactions constituted a common purpose, a common scheme.

"I concede that the failure to report one contribution might be an accident," he said, "the failure to report two contributions might be a coincidence; the failure to report 100 is a crime."

The lawyer had scarcely resumed his seat when President Cullen expressed his opinion that the evidence should be admitted. He said that he agreed with the contention of the counsel for the respondent that there could be no amendment of the articles that would bring in a new and different offense, but he interpreted the articles already preferred as being in substance an accusation of "knowledge or intention to make a false report," and on that ground, he held, proof of similar acts at or about the same time would be competent evidence.

"I hope, as this will come up often," he added, "that some one will demand a vote on this ruling. I rule the testimony is admissible."

The morning session began with the further examination of Thomas M. Godwin, of the Farmers' Loan and Trust Company, who was on the stand yesterday. After some fencing Mr. Stanchfield succeeded in getting him to express the opinion that the five deposit slips of dates in October, November and December, 1912, which were marked for identification by William Sulzer, they showed that on those dates Sulzer had deposited a total of \$14,400 in currency. The defense made no attempt to cross-examine Godwin, and his evidence stood unchallenged.

Abram I. Elkus was the next witness, and he was taken carefully over the ground covered by the previous disclosures before the Frawley committee with respect to his \$500 contribution made in his letter to Sulzer on October 4, 1912.

He identified the check, which was on the Plaza branch of the Union Trust Company, and the indorsement of "Wm. Sulzer" on its reverse, as well as the answer he had received from Sulzer, which, while thanking him for his good wishes, made no mention of the contribution.

The cross-examination of Elkus by Marshall developed nothing startling until the lawyer put this question to the witness:

"Did you intend that he might not use a part of this money or the whole of this money which you sent him for his living expenses, for instance?"

There was a vigorous protest and objection from the legal battery of the managers, and when President Cullen finally ruled that the question would be admitted, subject to striking out later, Marshall decided to withdraw it and Elkus left the stand.

The lawyers for the managers, however, wanted to have settled by a vote of the court the matter of allowing questions of future witnesses as to their intent in making contributions, but President Cullen, stating that he had disposed of the question previously, informed them that it would not be taken up again unless on the demand of some member of the court, adding that the lawyers might renew their objections if the same situation arose with a future witness.

Webb Floyd, president of the Mutual Alliance Trust Company, where the Sarecky account, which was Sulzer's campaign fund account, was kept, was the next witness. He testified that Louis A. Sarecky had an account in his bank since August 5, 1912, and that the account was still running.

Floyd was called upon to produce, explain and go over in detail a transcript of Sarecky's account, which showed that between October 1 and December 31, 1912, the deposits aggregated \$14,966.85. These included a list of checks, in which the oft mentioned Schiff check was pre-eminent for size, but which included also a long list of minor contributions not previously touched upon. Among these latter was the check of Morris Tekulsky for \$50, over which the later argument of the morning developed.

The witness identified the letter to his company of October 22, 1912, by which Sulzer authorized the bank to accept Sarecky's indorsement of Sulzer's name.

Mr. Stanchfield interrupted the examination of Floyd, after the Sarecky account had been checked up, to question the counsel for the Governor before the court as to the whereabouts of Sarecky and Frederick L. Colwell, Judge Herrick intimated in response that both men would appear at the proper time, and said that he expected they would present themselves as witnesses.

Harvey D. Hinman, of Sulzer's counsel, cross-examined Floyd, and contended himself chiefly with establishing that all but one of the indorsements on the checks put in evidence by the prosecution today had been made with a rubber stamp.

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FIND SARECKY IN ALBANY

Subpoena Servers Discover Him Sitting in Hotel.

(From a Staff Correspondent of The Tribune.) Albany, Sept. 25.—Louis A. Sarecky, who handled Governor Sulzer's campaign funds and who, Aaron J. Levy contended, was endeavoring to escape testifying before the Court of Impeachment, was found this afternoon at a hotel by two of the court's subpoena servers. He was brought to the detention room of the Senate. The subpoena, which was served upon him, called for his appearance at noon, but he was not found until 2:30 p. m.

"I got back to Albany last night," he said, "and have been at my hotel ever since. All this talk about my trying to evade the subpoena servers is cheap gallery claptrap."

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